

DAVID BURCHARD
CHAPTER 13 TRUSTEE
P.O. BOX 8059
FOSTER CITY, CA 94404
(650) 345-7801 FAX (650) 345-1514
(707) 544-5500 FAX (707) 544-0475

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

JACQUELINE KELLY
11 PEPPER AVE.
CORTE MADERA, CA 94925

###-##-9431

Debtor(s)

Chapter 13
Case No: 12-3-1163 SFC13
Date: August 23, 2012
Time: 09:35 AM
Cttrn: 235 PINE STREET, 23rd FLOOR
SAN FRANCISCO, CA 94104-

**MOTION OF CHAPTER 13 TRUSTEE, DAVID BURCHARD,
TO DISMISS CASE PRIOR TO CONFIRMATION**

TO: THE ABOVE-NAMED DEBTOR(S) AND TO DEBTOR(S)' ATTORNEY OF RECORD HEREIN:

The Chapter 13 Trustee, DAVID BURCHARD, moves the Court for an order, dismissing this case for cause(s) for the reasons set forth below.

1. This Court has jurisdiction over this matter pursuant to Federal Rules of Bankruptcy Procedure 9013 and 9014, and Bankruptcy Local Rules 9013-1 and 9014-1. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).
2. This Motion is based upon all documents and records on file, together with this Motion, Declaration and any such additional documents, records and evidence which may be presented.
3. Debtor(s) filed for bankruptcy under Chapter 13 on 04/16/2012.
4. This motion for dismissal is made for cause pursuant to:

11 U.S.C. § 1307(c)(1) as there is unreasonable delay that is prejudicial to creditors.
11 U.S.C. § 1307(c)(4) as Debtor(s) failed to make timely payments to the Trustee. As of the date of this motion, \$1,630.17 is in default under the Chapter 13 Plan.
5. The cause to dismiss this case exists as it is in the best interests of creditors and the bankruptcy estate. The Trustee therefore requests the Court enter an order dismissing this case.

If you wish to oppose dismissal of this Chapter 13 case, you or your attorney must file a timely opposition to this motion no later than fourteen (14) days before the hearing set forth in the accompanying Notice of Motion. You or your attorney must also appear at the hearing date listed in the notice and present argument in opposition to this motion.

DATED: July 25, 2012

DAVID BURCHARD
DAVID BURCHARD, Chapter 13 Trustee

DAVID BURCHARD
CHAPTER 13 TRUSTEE
P.O. BOX 8059
FOSTER CITY, CA 94404
(650) 345-7801 FAX (650) 345-1514
(707) 544-5500 FAX (707) 544-0475

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

JACQUELINE KELLY
11 PEPPER AVE.
CORTE MADERA, CA 94925

###-##-9431

Debtor(s)

Chapter 13
Case No: 12-3-1163 SFC13
Date: August 23, 2012
Time: 09:35 AM
Ctrm: 235 PINE STREET, 23rd FLOOR
SAN FRANCISCO, CA 94104-

**DECLARATION IN SUPPORT OF CHAPTER 13 TRUSTEE,
DAVID BURCHARD'S, MOTION TO DISMISS CASE
PRIOR TO CONFIRMATION
AND CERTIFICATE OF MAILING**

I am the custodian and/or keeper of the business records referenced herein and, as such, I am qualified to certify the authenticity thereof. Additionally, I have personal knowledge of the matters stated in the Declaration. If called upon as a witness, I could, and would, competently testify to the facts contained herein.

After reviewing the books, records and files of the above-referenced Debtor(s), I make the following Declarations:

1. Debtor(s) filed the instant bankruptcy petition on 04/16/2012. There is unreasonable delay towards plan confirmation that is prejudicial to creditors.
2. As of the date hereof, the following fact(s) exists as cause for dismissal:

<u> X </u>	Failure to make required payments to the Trustee. \$1,630.17 is in default under Ch. 13 Plan.
<u> </u>	Failure to attend Section 341 Meeting of Creditors scheduled on
<u> X </u>	Failure to respond to Trustee's requests – see attachment "A".

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on July 25, 2012 in Foster City, California.

Dated: July 25, 2012

DAVID BURCHARD

DAVID BURCHARD, Chapter 13 Trustee

CERTIFICATE OF MAILING

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 393 Vintage Park Drive, Suite #150, Foster City, CA. On the date set forth below, I served a true and correct copy of the **Motion** of Chapter 13 Trustee, David Burchard, to Dismiss Case Prior to Confirmation, the **Declaration** in Support of Chapter 13 Trustee, David Burchard's Motion to Dismiss Case Prior to Confirmation and **Certificate of Mailing**, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

JACQUELINE KELLY
11 PEPPER AVE.
CORTE MADERA, CA 94925

VERONICA M. AGUILAR
LAW OFFICES OF VERONICA M. AGUILAR
402 W BROADWAY #1900
SAN DIEGO, CA 92101

Dated: July 25, 2012

RGARCIA

RGARCIA
Case Administrator

DAVID BURCHARD
CHAPTER 13 TRUSTEE
P.O. BOX 8059
FOSTER CITY, CA 94404
(650) 345-7801 FAX (650) 345-1514
(707) 544-5500 FAX (707) 544-0475

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

JACQUELINE KELLY
11 PEPPER AVE.
CORTE MADERA, CA 94925

###-##-9431

Debtor(s)

Case No.: 12-3-1163 SFC13

Chapter 13

ATTACHMENT "A"

The Trustee made the following requests at least 30 days prior to the filing date of the instant motion :

1. Trustee requested the Debtor file the Rights and Responsibilities. Debtor has failed to file this document.
2. Trustee requested an Application for Approval of Attorney Fees be filed. Debtor has failed to file this document,